



2047.114

PATENT APPLICATION

1761
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
: Examiner: L. Wong
PONAKALA ET. AL.)
: Group Art Unit: 1761
CPA of Application No.: 09/465,402)
:
Filed: December 17, 1999)
:
For: N-[N-(3,3-DIMETHYLBUTYL)-l- α -)
ASPARTYL]-L-PHENYLALANINE 1-)
METHYL ESTER AS A SWEETENER IN
CHEWING GUM

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Assistant Commissioner for Patents
Washington, D.C. 20231

DECLARATION UNDER 37 C.F.R 1.132 OF GLENN CORLISS

Sir:

GLENN CORLISS declares and says that:

1. I have been employed by The NutraSweet Company since February 24, 1992 as a senior food scientist. Prior to that I was a scientist for The Carnation Company, Miles Laboratories and General Mills.
2. I have a BA in Chemistry from Albion College and MS and PhD degrees from Michigan State University in Food Science.
3. I am familiar with the subject matter of the above referenced patent application, as I currently have responsibility for research and development related to the use of The NutraSweet Company's sweeteners neotame and aspartame in chewing gum.

4. I am familiar with the prosecution history of the above-referenced patent application and its predecessor application. I have carefully reviewed the Examiner's position as set forth in the Official Action dated June 19, 2002. In particular, I have focused on Claims 19-25 of the application. I understand that these claims are being amended for formal reasons in a response being filed together with this declaration.

5. I am familiar with the experimentation which was the basis for the scope of Claims 19-25.

6. The data supporting claims 19-20 is found in Table 1 of the patent application (p. 10, lines 4-19) and the text at p. 10, lines 20-28. Specifically, the first column of the table shows the reduced sweetness loss rate of neotame compared to other sweeteners. This data is presented in more detail in a February 28, 2000 research report, summarizing data collected in October and November, 1999. This research report is attached as Exhibit 1 to this declaration. In particular, Graph 1 (which is another representation of Figure 1 of the patent application) and Table 2 illustrate the comparative reduction in sweetness loss using neotame. The difference in this loss rate would be meaningful to gum formulators, as sweetness loss is directly correlated with overall liking of gums.

7. The data supporting claim 21 is also found in Exhibit 1. Graph 2 and the "Minty" data of Table 2 illustrate the reduced flavor loss rate of neotame. Table 3 of the patent application (p. 17, lines 1-15) also shows the relative flavor loss of neotame with different levels of peppermint flavor. This data is significant in that the time frame addressed herein is the key time frame in which flavor is lost in conventional gum products. Thus, any reduction of this flavor loss results in an overall positive impression of the gum.

8. The data supporting claim 22 is also found in Table 3 of the patent application. 1.5% peppermint flavor was selected as a standard amount of peppermint flavor found in full-flavored chewing gums. Even with the use of 0.75% peppermint flavor, the flavor

intensity was maintained. The data which was the basis of this conclusion is found in Exhibit 2 to this Declaration.

9. Claims 23-25 are directed to the use of a rapid release sweetener together with neotame to provide an earlier sweetness onset. Claim 25 lists a series of sweeteners which are known to have rapid release. One of these sweeteners, sucrose, was tested in combination with neotame. The onset and other characteristics of a neotame/sucrose blend were compared with blends of neotame and other high-intensity sweeteners, which typically are not considered early onset sweeteners. Exhibit 3 to this Declaration illustrates that the sucrose/neotame blends were perceived to be sweeter than other blends or the neotame alone control at early chew times. Based on my personal experience, the other sweeteners listed in Claim 25 would be expected to have rapid release characteristics similar to the neotame/sucrose blend.

10. I have carefully reviewed the Exhibits referenced above and have checked the accuracy of the data contained in each of the Exhibits. I declare that I believe the data to be accurate.

11. In light of the above, I hereby declare that, to the best of my knowledge, I believe the above results to be consistent with patentability of Claims 19-25 of the present patent application.

Respectfully submitted,

A handwritten signature in cursive script that reads "Glenn Corliss". The signature is written in dark ink and is positioned above a horizontal line.

Glenn Corliss

Date: 10/23/02